THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.27047 of 2005

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Dated:27.12.2005

Between:

K. Venkata Subbarayudu, S/o. Subbarayudu,
R/o. H.No.1-1412, Parnapalle Road, Pulivendula, Kadapa District, and

others.

..... PETITIONERS

AND

The District Collector, Kadapa District, Kadapa, and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.27047 of 2005

ORDER:

The petitioners claim to be the owners of houses situated at Parnepalle Road in Pulivendula, Kadapa District. They claim that their houses have appurtenant land, but allege that while issuing notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'), proposing to acquire the property for laying the road from Parnepalle to Pulivendula, the respondents have shown only that portion of the land occupied by building and have not notified the appurtenant land allegedly situated in front of the petitioners' houses. Therefore, they assail the notification issued under Section 4(1) of the Act, dated 12.12.2005, whereby and whereunder enquiry under Section 5-A of the Act was dispensed with.

When the matter was listed on 20.12.2005, this Court directed the learned Assistant Government Pleader for Revenue (Land Acquisition) to get instructions in the matter. Today, after getting instructions in the matter, the learned Assistant Government Pleader submits that the land which is situated in front of the petitioners' houses forms part of Roads and Buildings land, and therefore, there is no necessity to acquire the same. He also submits that if the petitioners have any proof that the land

in front of their houses is the land appurtenant to their houses, they can raise the same objection before the Land Acquisition Officer and seek compensation for the same.

The question whether the land in front of the petitioners' houses forms part of appurtenant land over which the petitioners have title, is a disputed question of fact, which cannot be decided in a writ petition. Therefore, as rightly submitted by the learned Assistant Government Pleader, petitioners can raise their objections during the award enquiry, as and when the Land Acquisition Officer issues notification under Sections 9(1) and 10 of the Act. If their contention is not accepted, it would be still open to the petitioners to seek a reference to Court under Section 18 of the Act, if they raise a dispute regarding actual area which was acquired for the public purpose. In this writ petition, no relief can be granted to the petitioners.

Giving liberty to the petitioners to raise all the objections, in the light of survey report 2005, before the Land Acquisition Officer, the writ petition is disposed of. No costs.

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(V.V.S.RAO, J)

27.12.2005

vs